

REMARKS

Applicant respectfully requests reconsideration and allowance of claims 1-14, 31, 32, and 34 that are pending in the above-identified patent application. In view of the following discussion, Applicant submits that all pending claims are in condition for allowance.

Applicant respectfully acknowledges the Examiner's removal of U.S. 2003/0070679 as prior art pursuant to 35 U.S.C. § 103(c).

At page 2 of the Office Action, the Examiner rejected claims 1-14, 31, 32, and 34 under 35 U.S.C. § 103(a) as being unpatentable over Casper et al. (U.S. Pat. No. 6,644,309) (hereinafter referred to as the "'309 patent") in view of Casper et al. (U.S. Pat. No. 6,550,477) (hereinafter referred to as the "'477 patent"). Applicant respectfully traverses the Examiner's rejection.

Independent claim 1 recites, "...a container cartridge having a non-pressurized cylinder, at rest, containing a single-dose of the drug, a piston in the cylinder, and an outlet end opposite the inlet end having a dispensing facility and means for feeding the drug thereto; an elastic element for the storage of a predetermined quantity of energy; a mobile element to which the predetermined quantity of energy can be fed and which is coupled to the piston such that the energy can move the piston and expose the single-dose of the drug to a predetermined increase in pressure within the cylinder..." (Emphasis added.)

At page 3 of the Office Action, the Examiner alleges that the '309 patent discloses a piston (30) communicating with one end of the cylinder (via valve stem 58). Applicant respectfully submits that the Examiner has not considered the November 6, 2007 amendment to independent claim 1 on the merits. Indeed, the Examiner applied the prior art against the language of independent claim 1 as originally filed, i.e., "a piston communicating with one end of the cylinder..." As previously amended, however, claim 1 recites "a container cartridge having a non-pressurized cylinder, at rest, containing a single-dose of the drug, *a piston in the cylinder...*" (Emphasis added.)

Applicant submits that the teachings of the '309 patent and the '477 patent, alone or in combination, do not disclose or suggest a piston in a cylinder of a cartridge as claimed in the instant application. Indeed, piston 30 of the '309 patent device is located in pressure chamber 92, and thus outside the housing member 60 of cartridge 72. Because the '309 patent does not disclose or suggest a piston in the cylinder as claimed, the '309 patent consequently does not disclose or suggest a mobile element and an elastic element as claimed. Indeed, an elastic element of the present invention stores a predetermined quantity of energy, which is fed to the mobile element, and the energy moves the mobile element to "move

the piston [within the cylinder] and expose the single-dose of the drug to a predetermined increase in pressure *within the cylinder...*" (Emphasis added.) The '477 patent does not cure the deficiencies of the '309 patent.

In view of the above, Applicant submits that independent claim 1 is patentable. As claims 2-14, 31, 32, and 34 depend from independent claim 1, and recite additional patentable features, the subject dependent claims are therefore likewise patentable. Accordingly, Applicant respectfully requests the Examiner's §103 rejection be withdrawn.

In light of the lack of consideration of the claim language that existed at the time of issuing the February 19, 2008 Office Action, Applicant respectfully submits that a final office action in response to Applicant's arguments herein would be improper.

In view of the foregoing, Applicant submits that the instant claims are in condition for allowance. Early and favorable action is earnestly solicited. In the event there are any fees due and owing in connection with this matter, please charge same to our Deposit Account No. 11-0223.

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Respectfully submitted,

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